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CITIZENSHIP AND SOCIAL EXCLUSION

The Re-Integration of Political Ex-Prisoners in Northern Ireland

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The continuity of political themes between pre- and post-conflict Northern Ireland and the prominence of ex-prisoners in the political landscape render imperative the social integration of political ex-prisoners as a means to ease movement to a more normal political environment. This article argues that the means by which this may be achieved is through a vibrant engagement with the notion of citizenship, and through a privileging of the idea of social citizenship as something which unites both political traditions and through which the more thorny issue of political citizenship may be approached. In particular, the issues of poverty and social exclusion lie at the heart of the concerns of political ex-prisoners and, it is argued, lie at the heart of any potential solution to them. Social citizenship is therefore presented as the foundation for a model of transitional citizenship and a solid base from which to build a new and inclusive society.

Introduction

In Northern Ireland, there is an acknowledgement within the Good Friday Agreement of the need to treat ‘political’ prisoners differently from ‘ordinary’ prisoners.¹ While the most obvious and controversial example of this is the provision for the early release of political prisoners, less attention has been paid to the Agreement’s explicit acknowledgement of ‘the importance of measures to facilitate the reintegration of prisoners into the community by providing support both prior to and after release’ (Cm 3883: Annex A, para. 5). The absence of focus here may be because the Agreement, and its interpretation, is shot through with ambiguity and while it makes a number of implicit judgments, differing constituencies will read these in very different ways. Arguably, however, the reintegration commitment within the Good Friday Agreement implicitly (and positively) recognizes the particular role of ex-prisoners as protagonists not only of the conflict but of the developing post-conflict society, and of the social value in ensuring their inclusion as central stake-holders in this developing society. To put the matter in a negative way, in Northern Ireland, the lack of integration of political

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¹ The Good Friday Agreement is a document which provides a framework for political negotiation over the internal political arrangements within Northern Ireland, and the relationship between Northern Ireland, Britain and the Republic of Ireland. Its aim is therefore to facilitate a peaceful resolution to the political problems of Northern Ireland. ‘Political’ ex-prisoners are defined within this article as prisoners who have been convicted of a terrorist-related offence, with terrorism defined under s. 20 of the Prevention of Terrorism Act NI 1991 (as amended) as the threat or use of violence for political ends. It should also be noted that this paper is oriented towards male ex-prisoners and, as such, does not specifically consider the release and citizenship issues which are particular to female ex-prisoners, in particular the nature of female citizenship—for which, see Lister (2003).

ex-prisoners is likely to constitute not simply a series of individual tragedies but a destabilization of the entire project to forge a politically viable society.

In considering this issue of integration of such political prisoners, standard criminological considerations of how to discourage recidivism through social inclusion have only partial purchase, since, in Northern Ireland, the issue of exclusion elides into the question of political opposition. The very concept of 're-integration' is problematic because it does not address this meeting point of political opposition and social exclusion or recognize that those who faced political, social or economic exclusion prior to their imprisonment were never 'integrated' to begin with; ex-prisoners may have been 'integrated' into their own local social and political cultures, but still not receiving the social, welfare and economic goods nowadays associated with full citizenship. More fundamentally, the society into which inclusion is sought for such prisoners is itself in the process of rapid transition—a transition likely to be conditioned precisely by the degree of inclusion or exclusion of the prisoners in question. There is therefore a dialectical aspect here. The challenge that these violent actors presented has had the result that the nature of the state has changed: it is not simply a question of putting them back (the 're-') into the old dispensation. The paradox is that in the transitional process, it is impossible to predict who or what the state will be and so we cannot say who (or how) its citizens should be. For this reason, this article examines integration within a more fluid scheme of developing citizenship, which allows for the bringing together of social and political inclusion, and gives full value to the potential contribution to be made to a developing society by political ex-prisoners.

The article begins with a review of certain core writings on citizenship and transition, using these as a springboard to consider the particular ways in which Northern Ireland, as a transitional society, does not fit easily into standard analyses. Here are considered the issues of the undefined and contested nature of state, the issue of state legitimacy and the decision by ex-prisoners to self-exclude from citizenship by withholding legitimacy from the state. There follows an analysis of political ex-prisoners' relationship with the state, grounded in interviews with ex-prisoner support groups. What emerges, perhaps surprisingly given the standard view of political prisoners as ideologically dogmatic, is a pragmatic approach to citizenship that points directly towards problems of poverty and social exclusion. Developing these points, the article then focuses on how to develop an inclusive model of transitional citizenship for Northern Ireland and examines how poverty and social exclusion constitute a barrier to inclusivity. The political difficulties in realizing this model are identified but the article suggests that social citizenship provides a pragmatic means of working around the political difficulties and addressing them indirectly. This, it is argued, can create a much more solid social ground upon which eventual political transformation can occur, in turn leading to the realization of compatible notions of social and political citizenship.

The Citizenship Model

The standard social scientific reference work on citizenship, even in the wake of much recent debate, remains that of T. H. Marshall. Marshall defines civil citizenship as 'the rights necessary for individual freedom—liberty of the person, freedom of speech, thought and faith, the right to own property and to conclude valid contracts'. Political

citizenship is 'the right to participate in an exercise of political power, as a member of a body invested with political authority or as an elector of such a body'. Social citizenship covers 'the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilised being according to the standards prevailing in the society' (Marshall 1963: 74). Marshall's typology of citizenship thus identifies three separate species of rights coincident to three aspects of citizenship—civil rights, political rights and social rights—and it is this focus on the intricacies and subdivisions of the state's legal relationship to the individual that can allow some development of the argument around citizenship for political ex-prisoners in Northern Ireland. In particular is the argument that 'the social rights of citizenship . . . hold the key to active participation in democratic processes and the capacity to contribute to civil society' (Harris 2000: 23–4). Access to social citizenship is provided through social welfare protections, and the absence of such protections operates against inclusivity and provides scope for individuals to fall outside the law. In Duff's view, if systematic discrimination is inflicted on subjects, inconsistent with respect for them as responsible members of the normative community, and which treats them inconsistently with the concept of obligation which the state demands, law becomes a foreign voice which is not their own (Duff 1998: 264).

The realization of this difficulty in Northern Ireland is illustrative of the fact that 'aspirations for different forms and symbols of citizenship can clash bloodily' (Bulmer and Rees 1996: 280). In Northern Ireland, those who clashed most bloodily for preferred forms of citizenship are now those who are most excluded from it: political ex-prisoners in Northern Ireland face a series of social and structural exclusions which prevent them from engaging in and with civic society.² Consequently, they live without the protections afforded by full citizenship. The dangers of this are manifold. First, an inability to access the rights of citizenship means that individuals will not feel compelled to exercise the obligations of citizenship or respond to the voice of law. Given that pre-existing hostilities to law and legal structure are often already present, an exclusion from citizenship may serve to compound these hostilities. Secondly, Hillyard *et al.* (2005) have identified a clear link between poverty and conflict in Ireland which demonstrates the need to link conflict resolution strategies with a recognition of the causes of social deprivation and efforts to resolve those problems. Thirdly, since the integration of political ex-prisoners is dependant on a removal of the barriers to full citizenship, failure to address this issue is a failure to fulfil the promise of re-integration made in the Good Friday Agreement. It also fails to recognize any constructive role ex-prisoners may play in rebuilding society and provides further fuel for conflict. Ultimately, therefore, the failure to rectify the imbalance between partial and full citizenship in a transitional society, where conflict was in part premised on, at the very least, perceptions of inequality and exclusion, and to make good the political promise that the re-integration of political ex-prisoners would be possible, means that efforts to resolve the conflict are likely to encounter significant difficulties.

² For Republicans, the 'bloody clashes' were as a result of Republicans' fighting the state, while for Loyalists, the clash was in defence of the state and against Republicans. The nature of the clash is seen as particularly important by Republicans, who reject the notion that it was simply a clash between Loyalists and Republicans, with the British state acting as peacekeeper.

Challenges for the Citizenship Model

It must be recognized at the outset that there are significant challenges inherent in using the concept of citizenship as a means of realizing the rights of political ex-prisoners in a transitional society. First, the concept of citizenship is closely intertwined with the concept of state but a problem arises in determining who or what constitutes the state, given the long since contested constitution of the state in Northern Ireland. Secondly, using citizenship to argue for an inclusive approach to integration suggests that there needs to be some recognition of the legitimacy of the state to bestow rights and enforce obligations. Two issues arise from this. One is that in a transitional society the legitimacy of law must itself be questioned. The other concerns the difficulty around the extent to which those who are excluded chose to exclude themselves by withholding legitimacy from the state. Each of these problems requires further consideration.

Concept of state

Citizenship implies an established understanding of the nature of state that, in a transitional society, has not yet been determined. The inchoate nature of current constitutional arrangements creates a confusion over the relationship of the individual to the forms of political power. Whatever pattern of political power that has existed since the end of the Northern Ireland conflict has remained contested as to legitimacy by major political forces from within the political community. There is no stability in the recognition of what the state is, or of the legitimacy of any of the possible variants of state that might exist. In addition, as Campbell *et al.* (2003) demonstrate, there is a poverty within traditional constitutional law discourse that fails to accommodate the fluidity of conceptions of nation and state inherent in a transitional society:

In the constitutional law sphere, the state . . . is a settled and measurable entity. In the Agreement, the 'state' and its territory are fluid, and likely to remain so in the short to medium term. (Campbell *et al.* 2003: 325)

In Northern Ireland, the conflict has been centred on the contested nature of the state, with its 'citizens', *in extremis*, divided between those who oppose its existence, legitimacy and continuation and those who defend and uphold it. Post-conflict, the Good Friday Agreement has further impacted on the nature of state: while the Agreement provides a new political settlement, it does not determine the nature of state and so it is not clear what individuals are citizens of—a 'modernized' Northern Ireland³ or a bi-national state with equally legitimate unionist and nationalist views. Given this uncertainty, the relationship of individual citizens to the state in Northern Ireland is inherently problematic. Referring to the Marshallian model, the notion of 'political rights' must remain contested where the very nature and existence of the state are in question. The challenge is therefore to develop a notion of citizenship for a society which is undergoing fundamental post-conflict constitutional shifts; for citizens in search of a state.

³ What Seamus Mallon, Deputy First Minister, famously described as 'Sunningdale for slow learners', *Irish Times*, 20 October 1998.

Legitimacy of state

Given the lack of a settled state, the instrumental quality of political power actions take on a high degree of identity of statehood, in effect constituting a 'mask' in front of a void. This instrumental mask is visible in the operations of law and, in all transitions, there must be an examination of the role of law and a recognition that law in transition becomes both the subject and the object of change. In particular, building the legitimacy of law and legal institutions within excluded communities becomes a key element of the transition and a key strategy to deflect attention from what might be seen as more core constitutional issues as to state legitimacy. Ní Aoláin and Campbell (2005) have argued that the conceptual baseline for assessing the journey of transition has typically been 'that of the nondemocratic state in the process of change to a stable democracy' (Ní Aoláin and Campbell 2005: 173). This 'paradigmatic transition' is identified as appropriate for authoritarian states, where the legitimacy of the 'old' regime and its legacy of rights violations become the starting point for change, and transition is seen as a finite process which is completed when the 'old' is replaced by the 'new'. The difficulty with this model is that the need for transition is not limited to authoritarian states, but may also arise in 'conflicted democracies', namely states which can be broadly described as democratic prior to any transitional process:

. . . authoritarian entities may not be the only kind of states to leave in their wake a legacy of serious and systematic rights violations. A similar legacy may manifest in states that have experienced prolonged, structured, communal violence, even where the political structures could broadly be considered 'democratic'. These . . . 'conflicted democracies' . . . present a number of paradoxes, which become particularly obvious when structured processes aimed at ending political violence are put in place. (Ní Aoláin and Campbell 2005: 174)

Clearly, the presence of democratic structures does not automatically preclude violent internal conflict, and Northern Ireland is a case in point. What is required in a conflicted democracy, therefore, is a substantive rather than formal democracy, which is 'capable of delivering justice and corresponds with the notions of equal citizenship critical in representative societies' (Ní Aoláin and Campbell 2005: 200). The difficulty for a conflicted democracy is that examining the transition through this lens may force the state to engage with its failures as a democratic state and therefore contribute to the narrative on the nature of the conflict. The hope is that the promotion of recognizably valid forms and operations of law would encourage an acceptance of at least this semblance of legitimate exercise of power, providing a momentum towards the institution and acceptance of a 'state'. In other words, and to revert to the Marshallian typology, if there is no overall recognition of the state and therefore the notion of 'political rights' must remain, in the interim, contested, the idea of 'civil rights' may at least be fulfilled through the operations of a visibly equal and impartial justice system.

Withholding legitimacy

While the problems discussed immediately above have a certain quality of spread throughout the political community of Northern Ireland, there are particular features which exacerbate the difficulties for ex-prisoners. Although citizenship can function as a means of inclusion, individuals may choose to exclude themselves from citizenship by

withholding legitimacy from the state and this is exactly what many political ex-prisoners do. In Northern Ireland, this has presented particular problems for Republicans whose relationship with the state and whose view of citizenship has been fundamentally different from that of Loyalists. However, citizenship has not been rejected wholesale by either Republican or Loyalist ex-prisoners. Instead, the current and somewhat paradoxical model of citizenship for political ex-prisoners comprises three elements: state exclusion, self-exclusion and self-inclusion.

State exclusion is manifested through the social and structural exclusions ex-prisoners face as a result of their ex-prisoner status, whether categorized as 'criminal' or as 'political'. Exclusion may also be seen as self-inflicted due to a refusal to recognize the state's validity and engage with the state or its agencies. For Republicans, it is an ideological rejection of state legitimacy that results in self-exclusion. However, it may also be argued that (in Weberian terms) Loyalist ex-prisoners chose to exclude themselves by rejecting the state's monopoly on the legitimate use of force. Given the need to question the legitimacy of law in conflicted democracies, it is arguable that self-exclusion from citizenship is simply *de facto* state exclusion, in which case measures to tackle state exclusion should also impact positively on self-exclusion. At the same time, however, there may also be a degree of self-inclusion illustrated by, for example, a willingness to take up and access social security benefits. For Loyalists, there may be no significant ideological barriers to self-inclusion and so there is likely to be a stronger tendency towards self-inclusion while for Republicans, self-inclusion is more obviously utilitarian and selective. Nevertheless, it may be that self-inclusion in citizenship, and the current struggle by political ex-prisoners to attain full citizenship, amounts to *de facto* acceptance of state legitimacy. If so, this could be construed positively as a willingness to engage, even in transitory form, with the notion of citizenship and provides a starting point for a more inclusive relationship with the state. In fact, it is here, in the bread and butter issues of social welfare, that, in the absence of defined state, and in the heat of still contested legitimacy of exercise of the forms of criminal law (see, for example, the refusal of Sinn Féin to serve on Policing Boards or encourage members to join the police), there is to be seen some fertile ground for the growth of a notion of inclusive and equal citizenship. If, then, for members of the general community, the operations of a justice system giving rise to 'civil rights' may act as an acceptable interim mask arrangement hiding the difficulties in grand questions of political rights for another day, for ex-prisoners, both because of their generally deeper political commitment and their troubled relationship to law and to the legitimacy of law (in effect, many of these prisoners were part—sometimes remain part—of what might be termed 'alternative legal systems'), this mask slips. What is needed is a mask before the mask. The following section identifies the sometimes contradictory and surprising ideas of citizenship and social inclusion that animate political thought amongst political ex-prisoners and suggest a way forward towards inclusivity.

Political Ex-prisoners' Definitions of Citizenship

There is now a greater acceptance of the legitimacy of the state than has historically been the case, as evidenced by the willingness of paramilitary organizations to engage with the state in political terms and move away from violence. There is also a political settlement which represents a new possibility to examine the issues of establishment,

concept and maintenance of state. So what does this provisional or partial acceptance of state legitimacy mean for the citizenship of political ex-prisoners? Mike Ritchie, Director of the Republican ex-prisoners support group Coiste na n-larchimí (Coiste), argues that the issue of state legitimacy is:

... a very political issue so let's deal with that 'up there', and in terms of people ... just going about their daily life, that question can be 'parked'. For now there shouldn't be any barriers to citizenship ... Because actually you could apply that [argument] to all Republicans, and not just the ex-prisoners.⁴

For Ritchie, the issue of citizenship is more basic:

[P]ragmatically, whatever about who exercises sovereignty over this state, from our point of view, when people are living on the island then they ought to be treated like everybody else ... [I]f it hadn't been for the conflict then people wouldn't have been in jail, so why, once the conflict is over, and definitively over, should we [not remove] the barriers to whole areas of participation in public life?

To some extent, this view is shared by Tom Roberts, Director of the Loyalist ex-prisoner support group Epic, who states:

... when I talk in terms of citizenship what I mean is reinstating all the rights that any ordinary member of society has or that you had previous to your conviction ... All we have sought to bring about is a level playing field. We're not seeking any special status, just the same sort of citizenship that's enjoyed by the population at large.⁵

However, there is an ideologically different view of citizenship in that while Roberts agrees that the current form of citizenship has resulted in political and economic marginalization of loyalist ex-prisoners, a sense of loyalty towards the state prevails:

It's a thing that was always peculiar to the Protestant, loyalist community, like if you said you were being treated badly by the state it was seen as being disloyal too, so you pretended everything was OK.

Loyalist attitudes towards citizenship therefore arguably accept the citizenship on offer, while still recognizing exclusion from it and demanding a removal of the barriers to inclusion. For Republicans, however, citizenship is a much more politically charged issue, since it is a citizenship that they neither identify with nor accept.

Since citizenship implies obligations as well as rights, self-inclusion may also be seen to incorporate a decision to fulfil obligations required by the state. At a basic level, it is arguable that ex-prisoners do discharge their 'lawful' obligations in the sense that, as Roberts states, 'the vast majority of politically motivated prisoners never come to the attention of the law', and those who do reoffend represent a very small percentage of the political ex-prisoner population (Dwyer 2006; Independent Monitoring Commission 2005). In many ways, however, difficulties with the issue of obligation reflect the fact that citizenship is not a perfect model—but the aspiration to an ideal type of citizenship must be qualified by recognizing that 'ideal-types' rarely exist in reality and, in practice, can operate pragmatically (Burger

⁴ Interview with Mike Ritchie, Coiste, 20 December 2005. All references to Ritchie are based on this interview.

⁵ Interview with Tom Roberts, Epic, 9 January 2006. All references to Roberts are based on this interview.

1987). Moreover, the concept of society is also imperfect. Ritchie contextualizes the problem for Northern Ireland:

... you've got a fractured society here so if you define people's obligations to society, in a normal society that would be respect for the rule of law, support for the police, all those kind of things and obviously that's contested ground here. So if that definition is given . . . then clearly people haven't respected the rule of law though it goes to the heart of whether you accept that there was a conflict here.

It is clearly the case that the obligations of citizens must take account of the society in which those obligations fall to be discharged, and, from this perspective, there is an argument that ex-prisoners have been 'ideal' citizens in their fight to realize an ideal citizenship model. Post-ceasefires, ex-prisoners—while excluded from citizenship and contesting the nature of citizenship on offer—may be regarded as good citizens. In the case of Republican ex-prisoners, Ritchie argues:

[Ex-prisoners are] committed to their communities, they're involved in community work . . . for their communities, so . . . you may not agree with what they have done in the past but they would see it as . . . seamless.

This is echoed by Roberts, who believes that:

... the majority of former prisoners do live up to their obligations to society, possibly more so than what an ordinary member of the population would do, and this is one of the ironies . . . [I]f the barriers were removed we would have a bigger opportunity to play a role in society which is presently denied.

It is this willingness, and capacity, to be 'good citizens' either within their specific communities or at particular times during the transition, that suggests the objective of inclusivity for and of political ex-prisoners is not entirely elusive. It is also in this striking tone of agreement when it comes to the participation in society (when society is reduced to the identifiable contours of the local community) that point to the shared interests that Republican and Loyalist ex-prisoners have in the promotion of the social welfare of themselves and that which they know best—their own communities. In other words, whether through state exclusion or self-exclusion (itself arguably justified or the result of understandable mistrust), Loyalist and Republican ex-prisoners—a valuable resource in the constitution of a new society—are left alienated from, referring once again to Marshallian typology, political and civil rights. Where they are eager to engage, and where the opportunity of social inclusion lies, is in the arena of social rights, and social citizenship.

Towards Inclusivity?

As outlined above, the existing model of citizenship for political ex-prisoners is based on state exclusion, self-exclusion and self-inclusion. If the objective of citizenship, and its value as a means of integration, is inclusivity, the focus must now turn to whether or how the current model should be changed to accommodate political ex-prisoners. Ní Aoláin and Campbell (2005) argue that in transitional societies, there is a clear need for inclusivity:

In a transitional society the concern about inclusiveness rests on the incorporation of . . . problematic actors . . . [including those] whose political identity is rooted in a commitment to destroy the state . . . [and those] whose self definition revolves around the use of violent means. (Ní Aoláin and Campbell 2005: 198)

Therefore, the process of transition must bring political ex-prisoners on board, not despite but because they used violence as a means of challenging the state. In many ways, this point has already been accepted: the Good Friday Agreement has already included those dedicated to the violent overthrow or defence of the state. What is now required is to develop this inclusive process.

How, then, can state exclusion be challenged? If a barrier to understanding and developing a concept of citizenship for a transitional society is the fluidity of the nature of state, then the political process brought about by the Good Friday Agreement arguably provides the means to resolve this uncertainty. The Agreement has left open the question of how the state will ultimately be defined but, as Ní Aoláin *et al.* make clear, this is the nature of transition in a conflicted democracy where the transitional process is not finite or constrained. The decision on the nature and constitution of state in Northern Ireland is still open for negotiation, and can therefore work to accommodate those who have been excluded, or have excluded themselves. Consequently, any model of transitional citizenship which stems from this process will also need to be fluid and responsive to accommodate incremental and progressive changes over time.

As outlined above, one of the major difficulties with transition in a conflicted democracy is that the 'democratic' state 'is faced with a program of action that its self definition should have rendered unnecessary from the outset' (Ní Aoláin and Campbell 2005: 174). Nevertheless, the need for substantive democracy is absolute and, to this end, what is required is 'a deepening, rather than an introduction, of democracy' (Ní Aoláin and Campbell 2005: 212). The effect of this is two-fold. First, it allows the legitimacy of the state, and its actions during the conflict, to be questioned and reformed, where necessary. Second, the consequence of this for a model of transitional citizenship is to remove ideological barriers to self-exclusion and facilitate an emphasis on self-inclusion.

While the recognition of this is positive, it does not, in practice, change the ambiguous nature of the Agreement, or the contested and contestable interpretation of its provisions which are indicative of Campbell *et al.*'s (2003) point that the conflict in Northern Ireland is not over but transformed by the Agreement from violent to political contestation (Campbell *et al.* 2003). Therefore, while a transitional justice discourse provides a new means to understand and evaluate the constitutional shifts in post-conflict societies, essentially, the contested and fluid conception of state, the struggle with state legitimacy and the competing ideological views that exist are political questions and issues of political citizenship, whose resolution is simply beyond the scope of this article. Where the nature of state and the legitimacy of law are contested, political rights will also remain contested, and the likely resolution of the issues is neither immediate nor obvious, notwithstanding the mechanisms in place to deal with the transition. Similarly, while civil rights may be fulfilled in the interim for the general population through the operation of a formally impartial justice system, the troubled relationship of ex-prisoners to the justice system means that, for ex-prisoners at least, civil rights are also contested.

However, the inability (within this article at least) to effectively progress the issues of political and civil citizenship does not render the notion of citizenship void for political

ex-prisoners. What may instead be possible is to sidestep these problems and separate the political questions of construction and legitimacy of the state from the more basic requirements of social citizenship. It would seem that this approach can work in practice, given that the main achievement of the Northern Ireland peace process has not been the resolution of competing ideological and political demands but the ability to find a way to work within and around them. In addition, if access to citizenship is a way to encourage individuals to realize their responsibilities and respond to the voice of law, perhaps focusing on the social rights of citizenship will provide a means to address the political difficulties indirectly. Taking the pragmatic approach outlined by Ritchie and Roberts of 'parking' these questions to some extent allows us to deal with the day-to-day issues which are the focus of social citizenship and to explore how social citizenship operates in practice for political ex-prisoners in Northern Ireland. It is the premise of this article that social citizenship is the foundation of citizenship in transitional societies, and securing this foundation provides a solid base from which civil and political citizenship can then be built up. Poverty, social exclusion and social welfare protections are illustrative of the challenges that exist for social citizenship for political ex-prisoners, and it is important to understand the state's approach to these issues in order to assess what needs to be done to make the citizenship model more inclusive. This article, therefore, will use the common ground of citizenship identified by Ritchie and Roberts, with its focus on social citizenship, and work within the limitations of a fractured society to examine the potential of the citizenship model in realizing basic social rights for ex-prisoners and in providing the protections inherent in the citizenship ideal.

Integration

If the objective of social citizenship is inclusivity, then, for political ex-prisoners, this requires a realization of the commitment to their integration into society. Therefore, in order for integration to be successful, there needs to be an understanding of how citizenship operates for political ex-prisoners. Consequently, the state needs to take account of how it excludes ex-prisoners from citizenship, and how ex-prisoners may choose to exclude or include themselves, and 'translate' this awareness into a model of integration that is appropriate for political ex-prisoners in a transitional society. In social citizenship terms, what are required are integration measures that allow access to social welfare protections. The first step is to look towards a model of integration that is appropriate to a transitional society with ongoing political conflict over the nature and legitimacy of state. The second is to see how integration can specifically focus on the meeting point between political opposition and social exclusion. In practical terms, therefore, two main issues arise. The first is that the state needs to develop a model of integration that is specific to political ex-prisoners, or that can at least account for the specific difficulties that exist for political ex-prisoners in establishing themselves as citizens during the transition. The second concerns the state's approach to poverty and social exclusion. This approach needs to tackle, in general terms, the relationship between poverty, deprivation and conflict, and produce specific anti-poverty measures to break the existing link. More particularly, the state needs to recognize the nature and extent of the social welfare problems facing political ex-prisoners and focus on resolving these as a means of achieving integration and access to social citizenship. Therefore, the issues of a specific model of integration

for political ex-prisoners, and poverty and social exclusion as barriers to integration will now be specifically examined.

Specific model of integration for political ex-prisoners

The early release of political prisoners was clearly designed to assist the Northern Ireland peace process (McEvoy 2001). While this was a highly controversial measure, Bell *et al.* (2004) make the case that ‘in transitions particular legal institutions and norms are designed with a specific political task in mind: That of effecting and assisting transition’ (Bell *et al.* 2004: 307), but the early release provisions on their own cannot assist transition unless accompanied by appropriate measures of integration for those released. However, there has been a failure in Northern Ireland to deal specifically with the practical difficulties faced by prisoners on release, and a failure to realize the differences between the source, nature and impact of the problems faced by political and ordinary ex-prisoners. This is essentially a failure of the Good Friday Agreement to deal conclusively and unambiguously with the status of political ex-prisoners, and limits the possible solutions to the problems posed by a generic model of reintegration.

The traditional model of reintegration—designed to reintegrate the prisoner into a society with its predetermined constitution and legitimacy of state—does not work in a transitional society, and any attempt to apply it does not represent a value-free judgment but a statement about the nature of the conflict. It is of itself exclusionary of broader concepts of citizenship and does not account for the different ‘take’ on citizenship that arises in a transitional society. Nor does it take account of the link between poverty and conflict which has helped fuel the conflict to date and which constitutes a continuing barrier to social citizenship. Two potential solutions present themselves: either the state transforms its model of integration to identify political ex-prisoners as ‘different’ from ordinary offenders, or it reforms the model in such a way as to allow for some differentiation between political and ordinary ex-prisoners. The failure of the Agreement to deal conclusively with the status question suggests that a ‘different’ conception of integration—one which specifically acknowledges the political motivations for offences and questions whether these ex-prisoners are ‘criminals’—is unlikely to take hold in a policy or legislative framework. Instead, what may be possible to develop is a ‘differentiated’ model of integration which takes account of the particular needs of political ex-prisoners in Northern Ireland, acknowledging where these are similar to or different from the social welfare problems of ordinary ex-prisoners. Such an approach allows room for discussion of possible differences and some specific solutions and provides a recognition of why the integration of political ex-prisoners must be considered separately from that of ordinary ex-prisoners. Developing this understanding may then facilitate a pragmatic approach to the problem of social exclusion for political ex-prisoners.

The Government has not realized its stated goal of re-integration for political ex-prisoners, but that is not to say that the Government has done nothing. The early release provisions, an ‘extensive and developed nature of services’ for ex-prisoners (McEvoy *et al.* 1999: 193) and draft legislation (now abandoned) dealing with individuals ‘on the run’⁶ are all indicative of considerable efforts made by the Government to facilitate

⁶ The Offences Bill 2005 was abandoned mainly because of a withdrawal of support by Sinn Féin, who saw the Bill as constituting an unacceptable amnesty for offences committed by state security forces prior to the Agreement.

ex-prisoners within the political process. This article does not detract from those efforts. However, there needs to be an understanding in the first instance why these measures have not always been successful. For example, despite Government efforts, there is a low utilization of statutory support agencies by political ex-prisoners, due mainly to the failure of such agencies to take account of the political ideology of the prisoners, and a refusal by prisoners to be associated with agencies dealing with 'criminal' rather than 'politically motivated' prisoners (McEvoy 2001). This is clearly an illustration of self-exclusion, and of the difficulty in resolving the issue of political citizenship, and the Government needs to recognize this in order to deal effectively with it, and to realize that inclusion for ex-prisoners may, in the long term, support the viability of meaningful citizenship by contributing to a non-violent society. Social citizenship provides a practical way to address state exclusion; focusing on the social welfare issues facing political ex-prisoners provides a way to achieve successful integration.

Poverty and social exclusion as barriers to integration

Poverty and deprivation constitute basic obstacles to social citizenship, and are closely connected to the root of conflict in Northern Ireland. There is therefore both a social welfare and a political imperative in resolving the problem of exclusion, since getting it right in relative terms is made absolute by the political context. As Tomlinson *et al.* (2005) explain:

While the relationship between conflict and poverty is complex, research shows that poverty, underdevelopment, and levels of inequality are all high risk factors for armed conflict. Where there is poverty and inequality, grievances may become politicised . . . [W]hen poverty is combined with ethnic, religious or unresolved national divisions, armed conflicts are much more likely. (Tomlinson *et al.* 2005: 10)

Therefore, a 'national' approach to the problem of impoverishment of citizens, which is applied *carte blanche* to political ex-prisoners in Northern Ireland, fails to recognize the impact of the conflict on poverty. Hillyard *et al.* (2005) argue:

. . . in a society where both [poverty and conflict] coexist, attempts to tackle one cannot be carried out in the absence of policies to counteract the other. Nowhere is this more evident than in the post-conflict or transitional phase when reconstruction is paramount. (Hillyard *et al.* 2005: 149)

Despite this, there is no anti-poverty strategy specific to Northern Ireland,⁷ and the impact of the conflict does not feature in national poverty measures rolled out by the UK Government on a regional basis (Department for Work and Pensions 2003). The fact that the state is unable to recognize on a general level the role that conflict has played in creating and continuing levels of deprivation in Northern Ireland indicates that current thinking on the integration of social welfare dependent political ex-prisoners has a considerable distance to travel.

Citizenship is dependant on social integration, so those who face social exclusion inevitably face exclusion from social citizenship. The social exclusion of ex-prisoners is

⁷ There is a policy initiative called New Targeting Social Need which has no dedicated budget but which aims to skew resources towards deprived areas, but it makes no mention of the conflict and its relationship with poverty or deprivation (Office of the First Minister and Deputy First Minister 2004).

most clearly illustrated by the extent and nature of their dependence on state support; long-term unemployment and high benefit dependency are the realities for most ex-prisoners (e.g. McEvoy *et al.* 1999; Grounds and Jamieson 2003; Shirlow *et al.* 2005). Given the extent of benefit dependency within the ex-prisoner community, it is important to recognize that '[s]ocial security not only serves to relieve poverty, it also perpetuates it with low rates of benefit compared with other incomes' (Rahilly 2000: 431). Social citizenship is dependant on effective social welfare protections, and an income level from benefits which perpetuates poverty maintains all claimants—but particularly ex-prisoners—on the margins of citizenship. The only additional state payment currently available to (all) ex-prisoners is a discharge grant designed to help meet their immediate needs on release (HM Prison Service 2005): a fixed payment of £46 (£10.20 less than one week's Jobseeker's Allowance).⁸ There is clear evidence that this is insufficient to support prisoners on release (Social Exclusion Unit 2002; Hagell *et al.* 1995; Rowlingson *et al.* 1997), highlighting the fact that the provision of inadequate state finance operates to exclude ex-prisoners from social citizenship. The inadequacy of state support is compounded by difficulties in accessing social security benefits, and this is particularly problematic for ex-prisoners for whom lack of knowledge and confidence can affect the ability to make a full claim for all relevant entitlements. It may also undermine any objective of strengthening a political ex-prisoner's feelings of obligation towards the state, and serves only to reinforce negative opinions and experiences. The combination of difficulties in accessing benefits and the ultimate inadequacy of state welfare payments reinforces the exclusion of ex-prisoners from social citizenship and therefore undermines the prospect of integration.

As with a model of integration, there is a need to consider the specificity of access to state benefits for political ex-prisoners. In the same vein, the ambiguity of the Agreement in recognizing the status of ex-prisoners suggests that a special benefits package, while attractive in social citizenship terms, is likely to be too categorical to be politically feasible. Nevertheless, social security reform is an important part of the wider debate about the nature of citizenship and may also facilitate a way forward for the integration of political ex-prisoners, whether through an increase in benefit levels across the board (e.g. Lister 2000) or in the creation of a 'citizen's income' (e.g. Department of the Taoiseach 2002). If the specificity of problems and impact are also considered, for example, by providing greater facilitation and assistance during the claiming process, state support structures which take account of these ex-prisoners' political ideology, and pro-active policies to combat exclusion from employment, this may work towards counteracting existing barriers to social citizenship, and form the basis for anti-poverty strategies specific to Northern Ireland which take account of the impact of the conflict. Special measures of this nature may be limited enough to avoid becoming a conclusive narrative or a definitive route for the future but effective enough to deal with barriers to social citizenship. However, the 'how' question is incidental if the 'why' is not first settled: the policy question of how to develop access to adequate state protections cannot be adequately resolved unless the need to resolve it is fully understood and accepted.

⁸ Personal Allowance for income-based JSA for single persons aged 25 and over is £56.20. For those aged 18–24, the rate is £44.50: Social Security Benefits Up-rating Order (NI) 2005 (SR 2005/82). Jobseeker's Allowance is the primary means-tested unemployment benefit. Within the discharge grant, there is a possible additional discretionary payment of up to £50 paid directly to an accommodation provider to help the prisoner secure a release address.

As the ambiguity within the Agreement and the ongoing contested interpretation of its provisions suggest, there are inevitably popular and political objections to arguing for increased social welfare protections for political ex-prisoners. Plant has argued that there is a fundamental injustice in failing to attend to the welfare of those who, through no fault of their own, are unable to live a life which society defines as the norm of human fulfilment (Plant 1985). While it may be seen as incongruous to apply this to political ex-prisoners, a number of points arise. First, fault and responsibility are not static concepts, and are subject to the construction of justice at any one particular time. Teitel (1997) argues that, in the transitional context, the ordinary principle of individual responsibility for past wrongdoing is inapplicable:

The conception of justice in periods of political change is extraordinary and constructivist: It is alternatively constituted by, and constitutive of, the transition. What is deemed just is contingent and informed by prior injustice. (Teitel 1997: 2014)

The obligations of citizens must take account of the nature of society in which those obligations are to be discharged, allowing a specific case to be made for political ex-prisoners. While the impact of the exclusions suffered by political ex-prisoners is felt most keenly at an individual level, inevitably there is an impact on society, and on efforts to resolve the conflict. Dealing with the social welfare problems facing political prisoners allows for the removal of barriers to social citizenship which provides the foundation for a model of citizenship in transitional societies, from which political and civil citizenship can then be developed. There must be a recognition of the danger posed by the failure to integrate political ex-prisoners, and while this may be an uncomfortable and unpalatable basis on which to proceed, it is no less necessary for this. Campbell *et al.* (2003) point out that the Agreement is something which 'should be considered not as ending the conflict, but as transforming it (and partly as transcending it), by substituting political conflict for violent conflict, and by defining the modalities of conducting that political conflict' (Campbell *et al.* 2003: 333). The Agreement provides a means of facilitating discussion on questions of construction and legitimacy of state and can shape a more inclusive approach to political and civil citizenship by including those who have been in violent opposition to, or defence of, the state. However, this process is ongoing and protracted and, in the meantime, there is an opportunity at a more fundamental level to develop social citizenship to address the poverty and social exclusion which constitute barriers to full and effective integration. As Harris (2000) explains:

The citizenship ideal is . . . premised on the notion that the principle function of the welfare state is both to protect the poor from the effects of poverty . . . whilst at the same time seeking to combat the structural inequalities which can restrict social, political, and economic participation by all citizens. (Harris 2000: 20)

The structural inequalities in Northern Ireland have long since contributed to the conflict, and a failure to understand and utilize the role of social citizenship in transitional societies means that the basis for conflict continues to exist.

Conclusion

The current understanding and application of citizenship in Northern Ireland fail to recognize the specific citizenship issues which can arise in a transitional society, and

which, indeed, do occur for political ex-prisoners in particular. Consequently, any model of integration based on this flawed understanding is unlikely to succeed. Clearly, the transitional context makes the question of citizenship more complex, since decisions on the nature of citizenship change the nature of state. The difficulty is that any debate on citizenship impacts on the contested narrative of the conflict and the trajectory of the future. As Bell (2003) explains, 'Further measures to deal with pro-active reintegration of prisoners . . . cannot be designed without explicitly taking a position on the nature of the conflict and the goals of transition' (Bell 2003: 1143). While this leaves the issues of political and civil citizenship contested and unresolved, social citizenship provides fertile ground to develop an inclusive model of citizenship. Effectively, the concept of social citizenship provides a way to deal with the exclusion of political ex-prisoners by reconceiving the problem through the dimension of poverty. As Roberts states, this is not about ex-prisoners' 'seeking any special status' but of recognizing the need for a specific solution taking account of their difficulties in integrating and engaging with citizenship, and the impact of this for a transitional society. There needs to be a recognition of the specific nature of citizenship in a transitional society; of the importance of social citizenship in developing an inclusive relationship between ex-prisoners and the state and providing the foundation to develop political and civil citizenship; of the particular problems ex-prisoners face in accessing social citizenship; and of the need to create appropriate measures to facilitate access. The consequences of citizenship exclusion impact heavily on the individual ex-prisoner but also on the society they have returned to. While, for many, the inclusion of political ex-prisoners may come at a price, their continued exclusion could ultimately be much more costly.

REFERENCES

- BELL, C. (2003), 'Dealing with the Past in Northern Ireland', *Fordham International Law Journal*, 26: 1095–147.
- BELL, C., CAMPBELL, C. and NÍAOILÁIN, F. (2004), 'Justice Discourses in Transition', *Social and Legal Studies*, 13: 305–28.
- BULMER, M. and REES, A. M. (1996), 'Conclusion: Citizenship in the Twenty-First Century', in M. Bulmer and A. M. Rees, eds, *Citizenship Today: The Contemporary Relevance of T.H. Marshall*, 269–283. London: UCL Press.
- BURGER, T. (1987), *Max Weber's Theory of Concept Formation: History, Laws, and Ideal Types*. Durham: Duke University Press.
- CAMPBELL, C., NÍ AOILÁIN, F. and HARVEY, C. (2003), 'The Frontiers of Legal Analysis: Reframing the Transition in Northern Ireland', *Modern Law Review*, 66: 317–45.
- CM 3883 (1998), *Agreement Reached in the Multi-Party Negotiations*. Belfast: Northern Ireland Office.
- DEPARTMENT FOR WORK AND PENSIONS (2003), *National Action Plan on Social Inclusion 2003–2005*. London: The Stationery Office.
- DEPARTMENT OF THE TAOISEACH (2002), *Basic Income: A Green Paper*. Dublin: Department of the Taoiseach.
- DUFF, R. A. (1998), 'Inclusion, and Exclusion: Citizens, Subjects and Outlaws', *Current Legal Perspectives*, 51: 241–66.
- DWYER, C. D. (2006), 'The Politicisation of Risk Assessment: The Release of Prisoners under a Peace Agreement' (forthcoming).

- GROUNDS, A. and JAMIESON, R. (2003), 'No Sense of an Ending: Researching the Experience of Imprisonment and Release among Republican Ex-Prisoners', *Theoretical Criminology*, 7: 347–62.
- HAGELL, A., NEWBURN, T. and ROWLINGSON, K. (1995), *Financial Difficulties on Release from Prison*. London: Policy Studies Institute.
- HARRIS, N. (2000), 'The Welfare State, Social Security, and Social Citizenship Rights', in N. Harris, ed., *Social Security Law in Context*, 3–38. Oxford: Oxford University Press.
- HILLYARD, P., ROLSTON, B. and TOMLINSON, M. (2005), *Poverty and Conflict in Ireland*. Dublin: Combat Poverty Agency.
- HM PRISON SERVICE (2005), *Prison Service Instruction 03/2005 Discharge Grant*. HM Prison Service, available online at http://psi.hmprisonservice.gov.uk/PSI_2005_003_discharge_grant.doc.
- INDEPENDENT MONITORING COMMISSION (2005), *Fifth Report*, HC 46. London: The Stationery Office.
- LISTER, R. (2000), 'Citizenship, Exclusion and the Third Way', *Journal of Social Security Law*, 7: 70–87.
- (2003), *Citizenship: Feminist Perspectives*. Basingstoke: Palgrave Macmillan.
- MARSHALL, T. H. (1963), *Sociology at the Crossroads and other Essays*. London: Heinman.
- McEVOY, K. (2001), *Paramilitary Imprisonment in Northern Ireland*. Oxford: Oxford University Press.
- McEVOY, K., O'MAHONY, D., HORNER, C. and LYNER, O. (1999), 'Home Front: The Families of Politically Motivated Prisoners in Northern Ireland', *British Journal of Criminology*, 39: 175–97.
- NÍ AOLÁIN, F. and CAMPBELL, C. (2005), 'The Paradox of Transition in Conflicted Democracies', *Human Rights Quarterly*, 27: 172–213.
- OFFICE OF THE FIRST MINISTER AND DEPUTY FIRST MINISTER (2004), *Towards an Anti-Poverty Strategy: New TSN—The Way Forward, A Consultation Document*. Belfast: Office of the First Minister and Deputy First Minister.
- PLANT, R. (1985), 'The Very Idea of a Welfare State', in P. Bean, J. Ferris and D. Whynes, eds, *In Defence of Welfare*, 3–30. London: Tavistock.
- RAHILLY, S. (2000), 'Social Security, Money Management and Debt', in N. Harris, ed., *Social Security Law in Context*, 431–59. Oxford: Oxford University Press.
- ROWLINGSON, K., NEWBURN, T. and HAGELL, A. (1997), 'A Drop in the Ocean? The Discharge Grant and the Immediate Needs of Prisoners on Release from Custody', *Howard Journal of Criminal Justice*, 36: 293–304.
- SHIRLOW, P., GRAHAM, B., McEVOY, K., ÓHADHMAILL, F. and PURVIS, D. (2005), *Politically Motivated Former Prisoner Groups: Community Activism and Conflict Transformation*. Belfast: Northern Ireland Community Relations Council.
- SOCIAL EXCLUSION UNIT (2002), *Reducing Reoffending by Ex-Prisoners*. London: The Stationery Office.
- TEITEL, R. (1997), 'Transitional Jurisprudence: The Role of Law in Political Transformation', *Yale Law Journal*, 106: 2009–80.
- TOMLINSON, M., HILLYARD, P. and ROLSTON, B. (2005), 'Strong Links between Poverty and Conflict in Ireland', *Action on Poverty Today*, 8: 10–11.